Associated Press Wins Its Tilt Against Hearst News Bureau-Prevents Pirating of Bulletins.

LENGTHY OPINION IS WRITTEN BY JUSTICES

Brandeis, in Dissenting Opinion, Holds Contrary to Majority Finding on Supreme

as early or earlier than any similar information can be furnished to competing newspapers by other news services,
and that the news furnished to newspapers which do not contribute to the
expense of gathering it. And further,
to quote from the answer: Prompt
knowledge and publication of worldwide news is ensential to the conduct
of a modern newspaper, and by reason
of the enormous expense incident to of a modern rewsmaper, and by reason of the enormous expense incident to the gathering and distribution of said news, the only practical way in which a proprietor of a newspaper dan obtain the name, either through co-operation with a considerable number of other newspaper proprietors in the work of collecting and distributing such news, and the couldable division with them and the equitable division with them
of the expense thereof, or by the purchase of such news from same existlar agency engaged in that business.

The bill was filed to restrain the
prating of complainants news by defendant in three wars: First, by brihing
employes of newspapers published by



ERIN FARLEY, Baritone Announces the Reopening

of His Studio for **Voice Culture**

In the Lyceum Bldg.





Argue Restraint.

The only matter that has been ar-ned before us is whether defendant ay lawfully be restrained from ap-ropriating news lakes from bulletins sued by complainant or any of its embers, or from newsmapers pub-shed by them, for the purpose of sub-

See copyright office builtin No. 10 (1911), pp. 14, 16-17.

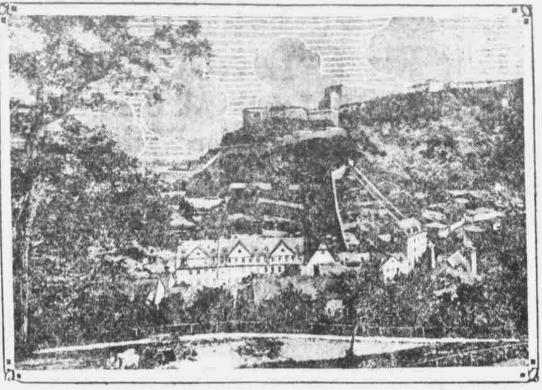
News is History.

"The the news element—the information respecting current events contained in the literary production—in the creation of the writer, but is a republic jurie. It is the history of the day. It is not to be supposed that the framers of the constitution, when the day. It is not to be supposed that the framers of the constitution, when they empowered congress to grounds the exclusive right to their respective writings and discoveries count at 1, sec. 8, par 8), intended to confer upon one who miss receive and inventors the exclusive right for any period to supred the knowledge of it.

"We need spend no time, however, upon the exercial quission of property and freshness from so important and processes of distribution and publication of copyright act, since it seems to tis the case must turn upon the question of unfair competition in hissiness. And, in our opinion, the seems to use the exercision of property analogous to the common law right of the propertor of an unpublication where the control of th

Fix Unfairness. Obviously, the question of what is infair competition in business must be intermined with particular reference of the character and circumstances of the purious or much the rights of either party as against the public but their rights as hetween themselves. See Marrison vs. Most, 9 Hare, 241, 258. And although

Yanks Hold Gibraltar of Rhine



FORTRESS AND CITY OF EHRENBREITSTEIN ON THE RHINE.

whether determined and middle common that orither of conduct is appropriating for common that appropriating for common that the public in the

mean by the public or by defendant for my buryings, whethere becomes lawful.

Set Aside Objection.

A preliminary objection to the form in which the suit is brought may be settled to protection as the right to guard property already accorded. Truns, the suit was brought the property of the property already accorded. Truns are already already accorded that the circuit court of appeals and that this was brought by complainant as a corporate early the property in t

Position Untenable.

The contention that the news is abundanced to the public for all purposes when published in the first newspaper is untenable. Abandanced to the entire organization of the Associated Press negatives such a purpose. The cost of the service would be neablifying the reward were to be so finited. No single newspaper, no anall group of newspapers, and the entire of the service would be neablifyed in the reward of the service would be neablifying the reward were to be so finited. No single newspaper, no anall group of newspapers, no anall group of newspapers, no anall group of newspapers, and the expenditures. Indeed, it is one of the most obvious results of defendant's theory, that, by permitting indiscriminate publication by anybody and everybody for nurposes of profit in competition with the news gatherer, it would render publication profites, or so little profitable as in effect to cut off the service by rendering the cost profibility in comparison with the return. The practical needs and requirements sisted that defendant's practices against

U. S. CAPITAL HESITATES ABOUT



Washington society while far from

having a dull season is hesitating until

it is decided what the White House is Bares Unfairness.

"The fault in the reasoning lies in applying as a test the right of the compiainant as against the public, instead of considering the rights of complainant and defendant, competitors in business as between themselves. The right of the purchaser of a single newspaper to spread knowledge of its contents gratuitously, for any legitimate purpose not unreasonably interfering with complainants right to make merchandise of it, may be admitted but to transmit that news for commercial use, in

of difficulty in discriminating between the utilities of the total the utilities of the uti

be better that the terms of the injunction be made specific, and so framed as to confine the restraint to an extent consistent with the reasonable protection of complainant's newspapers, each in its own area and for a specified time after its publication, against the competitive use of prrated news by defendant's customers. But the case presents practical difficulties, and we have not the materials, either in the way of a definite suggestion of amendment, or in the way of proofs, upon which to frame a specific injunction; hence, while not expressing approval of the form adopted by the district court we decline to modify it at this preliminary stage of the case, and will leave that court to deal with the matter upon appropriate application made to it for the purpose.

The associate opinion of Justice Holmes, in which Justice McKenna concurred, follows:

When an uncopyrighted combination of words is published there is no general right to forbid other people repeating them—in other words there is no uroperty in the combination or in the thoughts or facts that the words express. Property, a creation of law does not arise from value although exchangeable—a matter of fact. Many exchangeable—a matter of fact. Many exchangeable walues may be destroyed intentionally ellicut compensation. Property depends upon exclusion by law from interference, and a nerson is not excluded from using say combination of words marely because sumeone has used it before, even if it look labor and genius to make some other ground must be found. One such a such a way are free to make some other ground must be found. One such a property in the phrase, unfair tode. This means that the words are remerted by a competitor in business is such a way as to convex a misrepresentation that materially injures the person who first used them, by appropriating credit of some kind which the first user has earned. The ordinary case is a representation by device appearance or other indirection that the defendant's node come from the defendant's and words as h

Safeguard Enterprise.

"Fresh hews is got only by enter-prise and expense. To produce such news as it is produced by the defend-ant retreaents by implication that it has been acquired by the defendant's enterprise and at its expense. When it somes from one of the great news collecting agencies like the Associated

of the Associated Press.)-Fragments obtained of the latest output of Ger-man songs and poems of the war are shown through and livid, as were their forerunners, with hate.

"Now burn, O hate, flame forth! For we have loved too long. Hate in no sin, or if it is, God pardon us the wrong."

This is the beginning of a niece of verse whose kinghip to the notorious. Hymn of Hate, is evident. Then follows a catalogue of the allies, sins, the foremost of which is "consorting with vellow Asiatics." The final outburst runs.

"So burn, O hate, flame forth: Burn even in death's house. If ever hate should prove a sin, Sin be God's law to us."

If ever hate should prove a sin, Sin be God's law to us."

The writer signs himself "Michael," but one Bernhard Konig who styles himself "Kiny Besr-heart," outdoes him. He indites a long poem tellting Germany that when her virigin sword! had struck down her base and envious detractors, the would be called on to execute justice, without abatement or messay. Thus, "Then burl at him your scorn, the hateful hypocrite, the master liar, hur it in his face that grins with pride. Drive him out—there is no room for ball measures—drive out this soum of cowardly assassing, of Walloen negroes! Away with them! The face of Europe cannot endure such a disfigurement. A kick for this rabble which, a prey to folly, has presumed to cross swords with Germany.

There are nine stanzas of that.
Not very different is the voice of one P. T. Steicher, who grown lyrical with haired of "the sayane hordes," the enemy who are characterized as "tigers, hyenas, the off-scourings of humanity, the shame of Europe.

There is another poem by one Zeiger, who hymns force as the cleaner and inspirer of the world.

"Peace" he cries, "is but war that keeps silent."

"Bach sword-blow," W. Flex sings, "is a holy mass, each rifle shot a prayer.

"O Lord," intones another, we worship Thy might, we worship The in shining armor; and the homble work once accomplished and page come again, abett with wines separatered with blood, then let Thy lars sing for gladness, The High-Mass of Germany is ended."



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